



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,459	03/01/2002	Christopher Marshall	1650-005	6662
33461	7590	08/06/2004	EXAMINER	
SULLIVAN LAW GROUP 1850 NORTH CENTRAL AVENUE SUITE 1140 PHOENIX, AZ 85004			CHARLES, MARCUS	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/087,459	MARSHALL, CHRISTOPHER
	Examiner Marcus Charles	Art Unit 3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 November 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6,9-31 and 35-37 is/are pending in the application.
  - 4a) Of the above claim(s) 30,31 and 35-37 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 and 9-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 March 2002 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4 1/2</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

This is the first action relating to serial application number 10/087,459 filed 03-10-2002. Claims 1-6, 9-31 and 35-37 are currently pending.

### ***Election/Restrictions***

1. Applicant's election of invention 1 (claims 1-6 and 9-29) in papers # 9 in the reply filed on 11-24-2003 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 30-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11-24-2003.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

4. This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawing will be required when the application is allowed.
5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "first at and second elongated pins" as in claims 1-6 and 9-29, must be shown or the

Art Unit: 3682

feature(s) canceled from the claim(s). In addition, the drawings do not show the washers and having features as in claims 17-28. No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**Specification**

**Abstract**

6. The abstract of the disclosure is objected to because the phrases "the present invention relates to" and 'for example" are languages, which can be implied. In addition, the abstract lacks technical disclosure. Correction is

required. See MPEP § 608.01(b). Applicant is reminded of the proper language and format for an abstract of the disclosure.

7. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

8. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The language of the abstract should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Art Unit: 3682

9. The disclosure is objected to because of the following informalities: the use of legal phrases in the specification is not proper. Therefore, it is suggested to change the legal term "said" to --the--. Note for example: page 1, line 13; page 3, line 5; page 5, line 14, page 6, line 9, page 11, line 9 etc. In addition, the subtitle --Cross Reference to Related Applications-- for the first paragraph is missing. Appropriate correction is required.

10. The specification is objected to as failing to provide proper antecedent basis for "the non-tapered counterbores" as in claims 1 and 29. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required.

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-6 and 9-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is unclear as to what is being referred to as "the substantially flat horizontal surface". In claim 11, it is not clear as to what shape is being considered a teardrop profile.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3682

14. Claims 1-6 and 9-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Applicant submitted prior art by Stephen E. Winegardener for Rennord Corporation) in view of Sheldon (4,220,052). Winegardener discloses the claimed invention including a multi-link conveyor chain comprising first and second elongated pins spaced apart in parallel relationship, each pin having a non-circular cross-section; a plurality of link plates mounted on the pins, each link has a main body defining a non-circular aperture to match the non-circular pins; first enclosure member having a trapezoidal section and having a main body defining first and second non-circular apertures that matches the shape of the pins. Each aperture includes a tapered counterbore for accommodating the head of the pin. Winegardener does not disclose the counterbore in non-tapered. Sheldon discloses a chain comprising links having pinholes that have non-tapered counterbores (21a, 23a) in order to allow for the riveted head of the pin to have uniform thickness so as to strengthen the chain in the lateral direction. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the outer plates of Winegardener so that the counterbores are non-tapered in view of Sheldon in order to allow for the riveted head of the pin to have uniform thickness so as to strengthen the chain in the lateral direction.

In claims 2-3, Winegardener discloses the claimed invention including the second enclosure, which is identical to the first enclosure.

In claim 4, it is apparent that the chain includes a plurality of first and second enclosures.

In claims 5 and 6, note the enclosures having round corners

In claims 9-27, Winegardener anticipates the claimed invention.

Regarding claims 17-27, Winegardener discloses the claim invention but does not disclose the chain having washers between the link plates. Applicant clearly disclose in page 3, paragraph [003] that it is well known in the art for a chain having washer (s) between the link plates. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Winegardener to include washers between the links in view of applicant disclosure in order to reduce friction between the links. Furthermore, applicant did not disclose the configuration of the links. However, it would have been obvious to one of ordinary skill in the art at the time of the invention for a washer to have any particular shape, since washers with various shapes are well known in the art. As shown In re Dailey, 149 U 47(CCPA 1976), a change in a basic geometrical shape of a known apparatus would be an obvious improvement.

Regarding claim 28, it would have been obvious to one of ordinary skill in the art to provide a washer composed of heat treatable alloy steel having a working temperature of excess of 350<sup>0</sup>C, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hodlewsky (4,858,753) and JP (04-8949) disclose a chain having a non-tapered counterbore in the links. Perry (1,947,734), UK (383,295) and Cole, Jr. et al. (5,192,253) disclose a chain with pins have a non-circular shape. Hoffstetter (3,835,721), Renold (690,317) and DE (3132317) disclose a chain having a washer between each pair of links.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday-Thursday 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Marcus Charles  
Primary Examiner  
Art Unit 3682  
July 27, 2004